

Notice of Allowability

Application No.

10/045,180

Examiner

F. Pierre VanderVegt

Applicant(s)

BOUGUELERET ET AL.

Art Unit

1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to papers filed 3/28/2006.
2. ☒ The allowed claim(s) is/are 53-57, 61, 71-73, 75-79, 83-88, 92-97 and 101-103.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>04282006</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

1. An extension of time under 37 CFR 1.136(a) is required in order to make an examiner's amendment that places this application in condition for allowance. During a telephone conversation conducted on April 28, 2006, Frank C. Eisenschenk requested an extension of time for ONE (1) MONTH(S) and authorized the Director to charge Deposit Account No. 19-0065 the required fee of \$60.00 for this extension and authorized the following examiner's amendment. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

IN THE CLAIMS:

In claim 54, at the end of the claim, the recitation of --wherein said fragment has at least one biological activity selected from antimicrobial activity or cytotoxic activity-- has been added.

In claim 56, at the end of the claim, the recitation of --wherein said fragment has at least one biological activity selected from antimicrobial activity or cytotoxic activity-- has been added.

In claim 57, at the end of the claim, the recitation of --wherein said fragment encodes a polypeptide consisting of a fragment of SEQ ID NO: 3 comprising at least 10 consecutive amino acids of SEQ ID NO: 3 and has at least one biological activity selected from antimicrobial activity or cytotoxic activity-- has been added.

In claim 72, at the end of the claim, the recitation of --wherein said fragment encodes a polypeptide consisting of a fragment of SEQ ID NO: 6 comprising at least 10 consecutive amino acids of SEQ ID NO: 6 and has at least one biological activity selected from antimicrobial activity or cytotoxic activity-- has been added.

In claim 75, at the end of the claim, the recitation of --wherein said fragment has at least one biological activity selected from antimicrobial activity or cytotoxic activity-- has been added.

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In claim 76, at the end of the claim, the recitation of --wherein said fragment has at least one biological activity selected from antimicrobial activity or cytotoxic activity-- has been added.

In claim 78, at the end of the claim, the recitation of --wherein said fragment encodes a polypeptide consisting of a fragment of SEQ ID NO: 3 comprising at least 10 consecutive amino acids of SEQ ID NO: 3 and has at least one biological activity selected from antimicrobial activity or cytotoxic activity-- has been added.

In claim 84, at the end of the claim, the recitation of --wherein said fragment encodes a polypeptide consisting of a fragment of SEQ ID NO: 6 comprising at least 10 consecutive amino acids of SEQ ID NO: 6 and has at least one biological activity selected from antimicrobial activity or cytotoxic activity-- has been added.

In claim 87, at the end of the claim, the recitation of --wherein said fragment encodes a polypeptide consisting of a fragment of SEQ ID NO: 3 comprising at least 10 consecutive amino acids of SEQ ID NO: 3 and has at least one biological activity selected from antimicrobial activity or cytotoxic activity-- has been added.

In claim 93, at the end of the claim, the recitation of --wherein said fragment encodes a polypeptide consisting of a fragment of SEQ ID NO: 6 comprising at least 10 consecutive amino acids of SEQ ID NO: 6 and has at least one biological activity selected from antimicrobial activity or cytotoxic activity-- has been added.

In claim 95, line 5, the recitation of "6" has been replaced by --3--.

In claim 96, at the end of the claim, the recitation of --wherein said fragment encodes a polypeptide consisting of a fragment of SEQ ID NO: 3 comprising at least 10 consecutive amino acids of SEQ ID NO: 3 and has at least one biological activity selected from antimicrobial activity or cytotoxic activity-- has been added.

In claim 102, at the end of the claim, the recitation of --wherein said fragment encodes a polypeptide consisting of a fragment of SEQ ID NO: 6 comprising at least 10 consecutive amino acids of

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SEQ ID NO: 6 and has at least one biological activity selected from antimicrobial activity or cytotoxic activity-- has been added.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Pierre VanderVegt whose telephone number is (571) 272-0852. The examiner can normally be reached on M-Th 6:30-4:00 and Alternate Fridays 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (571) 272-0841. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

F. Pierre VanderVegt, Ph.D. *RV*
Patent Examiner
April 28, 2006

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